

GETTYSBURG ASYLUM LOTTERY.

LETTER

FROM THE

COMMISSIONER OF INTERNAL REVENUE,

IN ANSWER TO

A resolution of the House of 12th instant, relative to the Gettysburg asylum lottery.

DECEMBER 19, 1867.—Referred to the Committee on Retrenchment and ordered to be printed.

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, December 17, 1867.

SIR: In response to a resolution passed December 12, 1867, directing me to report to the House of Representatives "the reasons why the supervisors of the scheme known as 'the Gettysburg Asylum for Invalid Soldiers' have been exempted from the payment of the special tax or duty on a lottery called by them a gift enterprise," I have the honor to submit the following:

The provisos to section three of the act of June 30, 1864, are as follows:

"*Provided*, That the managers of any sanitary fair or of any charitable, benevolent, or religious association may apply to the collector of the district and present to him proof that the proceeds of any contemplated lottery, raffle, or gift enterprise will be applied to the relief of sick and wounded soldiers, or to some other charitable use, and thereupon the Commissioner shall grant a permit to hold such lottery, raffle, or gift enterprise, and the said sanitary fair or charitable or benevolent association shall be exempt from all charge, whether from tax or license, in respect to such lottery, raffle, or gift enterprise: *Provided further*, That nothing in this section contained shall be construed to legalize any lottery."

On the 8th day of March, 1867, certain printed instructions were issued upon this subject, a copy of which, marked A, is herewith transmitted.

The law provides that the application and proof shall be made to the collector of the district, whose facilities for a thorough examination of the merits of each application are far greater than those of the Commissioner. If the proof is satisfactory to the collector he approves the application in writing and forwards it to this office. His recommendation is what is chiefly relied upon, and when it is received the desired permit is issued, unless some good reason for withholding it is known to exist.

On the 29th day of May, 1867, a petition was received at this office, a copy of which is herewith enclosed, marked B, in which the petitioners, who claim to constitute the board of supervisors appointed by "the Gettysburg Asylum for Invalid Soldiers," "to raise funds for the erection and maintenance of the insti-

tution," ask to be exempted from the payment of internal revenue taxes in respect to their proposed lottery or gift enterprise. Accompanying this petition was the affidavit of a person claiming to be the secretary of the corporation, a copy of which is herewith enclosed, marked C. These papers were sent to this office by John H. Diehl, esq., collector of the second district of Pennsylvania, in a letter, a copy of which is herewith enclosed, marked D, in which he says he desires to approve the application, and at the same time says there is a difference of opinion respecting the constitutionality of the act incorporating the petitioners and their associates.

The law provides that nothing contained in section three shall be construed to legalize any lottery.

I did not therefore feel it incumbent upon me to withhold the permit on account of any doubt respecting the legality of the act of incorporation, inasmuch as no action of mine would affect it. No other objection was suggested by the collector, and none whatever was suggested by any other party, and, acting upon what I regarded as a recommendation of the collector, I issued the permit, a copy of which is herewith enclosed, marked E.

I have the honor to be, very respectfully, your obedient servant,

E. A. ROLLINS,
Commissioner.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

A.

[Circular No. 59.]

*Respecting applications for permits to hold lotteries, raffles, and gift enterprises
"exempt from all charge."*

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, March 8, 1867.

The following is the provision of law by which such permits are authorized:
"Provided, That the managers of any sanitary fair, or of any charitable, benevolent, or religious association, may apply to the collector of the district and present to him proof that the proceeds of any contemplated lottery, raffle, or gift enterprise will be applied to the relief of sick and wounded soldiers or to some other charitable use; and thereupon the Commissioner shall grant a permit to hold such lottery, raffle, or gift enterprise, and the said sanitary fair or charitable or benevolent association shall be exempt from all charge, whether from tax or license, in respect of such lottery, raffle, or gift enterprise."

Such a permit can be granted only to a sanitary fair or to a charitable, benevolent, or religious association. The application should be made by the managers of the fair or association; should be addressed to the Commissioner of Internal Revenue; should be supported by proof, in writing, that the *entire net proceeds* "will be applied to the relief of sick and wounded soldiers, or to some other charitable use;" and should be presented, together with the evidence supporting it, to the collector of internal revenue for the proper district, who, if he approves it, will indorse his approval thereon, and forward it, and all the papers relating to it, to this office. The desired permit will then be issued and sent to the managers through the collector, unless, in the opinion of the Commissioner, there be some good reason for withholding it. Such a permit is *prima facie* evidence of exemption from special tax and from the tax upon gross receipts.

Collectors have no authority to issue permits themselves, but are simply to receive applications and forward such as they approve to the Commissioner.

It is believed that applications are sometimes approved by collectors without

due consideration. A distinction as to the amount of evidence to be required should be drawn between applications by long-established, well-known charitable associations, and those by associations originated for some temporary purpose or some particular occasion. When there is good reason to suspect that a permit, if granted, would be used to subserve private interests, party or political ends, or any other purposes than those stated in the law as above quoted, approval should be withheld until the facts have been stated to this office and its advice obtained.

If a permit is obtained by false and fraudulent representations, or if the object for which it is granted is ignored or supplanted by some other not embraced in the forgoing provision of the law, it will be revoked by the Commissioner, and will give no protection to the managers or others in acts inconsistent with its express terms.

E. A. ROLLINS, *Commissioner.*

B.

OFFICE OF THE GETTYSBURG ASYLUM FOR INVALID SOLDIERS,
1,126 Chestnut Street, Philadelphia, May 27, 1867.

The undersigned, who constitute the board of supervisors appointed by the above corporation to raise funds for the erection and maintenance of the institution, respectfully ask that they be exempted from the payment of internal revenue tax, under the provisions of the statute in such case made and provided. They indorse herewith the affidavit of the secretary of said board, as required by the rules of the department.

Respectfully,

J. J. DICKINSON.
RICHARD FRANCO.
P. A. EGERTON.

C.

J. D. Hoffman, being duly sworn, deposes and says: That he is the secretary of the board of supervisors appointed by the Gettysburg Asylum for Invalid Soldiers to raise funds for the erection of said institution, under the provision of the act of the assembly of the legislature of Pennsylvania approved March 6, 1867. He further says that the net proceeds of all funds received by them, after the payment of all expenses, including advertising, printing, salaries, commissions, rents, &c., are to be appropriated to the benevolent purposes for which the corporation was created, as provided by the charter.

Sworn to and subscribed before me this 24th day of May A. D. 1867.

J. D. HOFFMAN.

In witness whereof I have hereunto set my hand and affixed my official seal, at the city and in the State of New York.

[SEAL.]

SYLVESTER LAY,

Pennsylvania Commissioner, No 251 Broadway, N. Y.

JOHN R. DIEHL, Esq., *Collector, &c.*

D.

U. S. INTERNAL REVENUE COLLECTOR'S OFFICE,
SECOND DISTRICT OF PENNSYLVANIA,
Philadelphia, May 28, 1867.

SIR: I have the honor to enclose herewith an application of the board of supervisors of the Gettysburg Asylum for Invalid Soldiers, for exemption from the

payment of internal revenue tax, accompanied by an affidavit of the secretary of the board that the net proceeds of the enterprise are to be appropriated to the benevolent purpose for which the corporation was created. While I desire to approve this application, it is proper for me to say to you that the attorney general of this State has raised a question as to the constitutionality of the act of incorporation granted by our legislature, and that the case has been brought before the supreme court for adjudication. I am assured, however, by reliable parties, that Hon. William M. Meredith, George W. Riddle, esq., and Samuel C. Perkins, esq., three eminent counsel of this city, have given their opinion that there is no difficulty in the matter, either legally or otherwise.

Very respectfully, your obedient servant,

JOHN H. DIEHL, *Collector.*

Hon. E. A. ROLLINS,

Commissioner of Internal Revenue, Washington, D. C.

E.

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,

Washington, June 5, 1867.

SIR: I reply to yours of the 28th ultimo, that the permit required for the benefit of the Gettysburg Asylum for Invalid Soldiers, and which you recommend, as proper to be granted, is herewith transmitted.

Very respectfully,

E. A. ROLLINS, *Commissioner.*

JOHN H. DIEHL, Esq.,

Collector Second District, Philadelphia, Pennsylvania.

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,

Washington, June 5, 1867.

Whereas J. J. Dickinson, Richard Franco, and P. A. Egerton, as "super-visors" of the Gettysburg Asylum for Invalid Soldiers, have made due application to John H. Diehl, collector of internal revenue for the second collection district of the State of Pennsylvania, for permission to hold a lottery, raffle, or gift enterprise, and presented to him satisfactory evidence that the proceeds of said lottery, raffle, or gift enterprise will be devoted to charitable uses, permission is hereby granted to the said supervisors to hold such lottery, raffle, or gift enterprise exempt from all charge, whether from special tax or other duty, in respect of said lottery, raffle, or gift enterprise.

E. A. ROLLINS, *Commissioner.*